

United States Postal Service

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§ 951.8 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

[42 FR 5357, Jan. 28, 1977]

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

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AUTHORITY: 39 U.S.C. 204, 401, 3005.

SOURCE: 36 FR 11563, June 16, 1971, unless otherwise noted.

§ 952.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service (See § 952.26) pursuant to authority delegated by the Postmaster General.

§ 952.2 Scope of rules.

These rules of practice shall be applicable in all formal proceedings before the Postal Service, 39 U.S.C. 3005, including such cases instituted under prior rules of practice pertaining to these or predecessor statutes, unless timely shown to be prejudicial to the respondent.

[36 FR 11563, June 16, 1971, as amended at 52 FR 36763, Oct. 1, 1987]

§ 952.3 Informal dispositions.

These rules do not preclude the disposition of any matter by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

§ 952.4 Office business hours.

The offices of the officials mentioned in these rules are located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, and are open Monday through Friday except holidays from 8:15 a.m. to 4:45 p.m.

[63 FR 66050, Dec. 1, 1998]

§ 952.5 Complaints.

When the General Counsel of the Postal Service or his designated representative believes that a person is using the mails in a manner requiring formal administrative action under 39 U.S.C. 3005, he shall prepare and file with the Recorder a complaint which names the person involved; states the name, address and telephone number of the attorney representing Complainant; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; and requests the issuance of an appropriate order or orders. Complainant shall attach to the complaint a copy of the order or orders requested which may, at any time during the proceedings, be modified. The person named in the complaint shall be known as the "Respondent", and the General Counsel shall be known as the "Complainant."

The term "person" (1 U.S.C. 1) shall include any name, address, number or

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other designation under or by use of which the Respondent seeks remittances of money or property through the mail.

[48 FR 55126, Dec. 9, 1983]

§ 952.6 Interim impounding.

In preparation for or during the pendency of a proceeding initiated under 39 U.S.C. 3005, mail addressed to a respondent may be impounded upon obtaining an appropriate order from a U.S. District Court, as provided in 39 U.S.C. 3007.

§ 952.7 Notice of answer and hearing.

(a) When a complaint is filed against a Respondent whose mailing address is within the United States, the Recorder shall issue a notice of answer and hearing stating the date for filing an answer which shall not exceed 15 days from the service of the complaint, the time and place of the hearing and a reference to the effect of failure to file an answer or appear at the hearing. (See §§ 952.10 and 952.11.) Whenever practicable, the hearing date shall be within 30 days of the date of the notice.

(b) Where a complaint is filed against a Respondent whose mailing address is not within the United States, the Judicial Officer shall review the complaint and any supporting information and determine whether a prima facie showing has been made that Respondent is engaged in conduct warranting issuance of the orders authorized by 39 U.S.C. 3005(a). Where he concludes that a prima facie showing has not been made he shall dismiss the complaint. Where he concludes that a prima facie showing has been made, he shall issue a tentative decision and orders which: set forth findings of fact and conclusions of law; direct Respondent to cease and desist from engaging in conduct warranting the issuance of an order authorized by 39 U.S.C. 3005(a); direct that postal money orders drawn to the order of Respondent not be paid for 45 days from date of the tentative decision; direct that mail addressed to Respondent be forwarded to designated facilities and detained for 45 days from the date of the tentative decision subject to survey by Respondent and release of mail unrelated to the matter complained of; and provide that unless

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Respondent presents, within 45 days of the date of the tentative decision, good cause for dismissing the complaint, or modifying the tentative decision and orders, the tentative decision and orders shall become final. The Judicial Officer may, upon a showing of good cause made within 45 days of the date of the tentative decision, hold a hearing to determine whether the tentative decision and orders should be revoked, modified or allowed to become final. Should a hearing be granted, the Judicial Officer may modify the tentative decision and orders to extend the time during which the payment of postal money orders payable to Respondent is suspended and mail addressed to Respondent is detained.

[44 FR 61959, Oct. 29, 1979, as amended at 48 FR 55126, Dec. 9, 1983]

§ 952.8 Service.

(a) Where the Respondent's mailing address is within the United States, the Recorder shall cause a notice of answer and hearing and a copy of the complaint to be transmitted to the postmaster at any office of address of the Respondent or to the inspector in charge of any division in which the Respondent is doing business, which shall be delivered to the Respondent or his agent by said postmaster or a supervisory employee of his post office or a postal inspector. A receipt acknowledging delivery of the notice shall be secured from the Respondent or his agent and forwarded to the Recorder, U.S. Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, to become a part of the official record.

(b) If, after 5 days, the postmaster or his agent can find no person to accept service of the notice of answer and hearing and complaint pursuant to paragraph (a) of this section, the notice may be delivered in the usual manner as other mail addressed to the respondent. A statement, showing the time and place of delivery, signed by the postal employee who delivered the notice of answer and hearing and complaint shall be forwarded to the Recorder and such statement shall constitute evidence of service.